

REMARKS

Claims 22-74 are pending in the present application. Claim 74 has been withdrawn from consideration by the Examiner. Claims 22 and 73 have been amended in this Response. No new matter has been added to the application.

Claims 22-73 have been rejected under 35 U.S.C. § 112, second paragraph, as indefinite. Applicants respectfully amend claim 73 to include "an" placed prior to the recitation of "acceptable pharmaceutical excipient." Additionally, Applicants amend claim 22 to include Chlorine ("Cl"), rather than "C1," in the definition of "R." See the Specification, page 2, line 30.

Claims 22, 23, 25, 47, 60, 68 and 70 have been rejected under 35 U.S.C. § 102(b) as anticipated by Reetz (Angew. Chem., Int. Ed. Engl., 31 (12), 1626-1629, 1992).

The Office Action asserts that Reetz teaches compounds 11 and 13 (see page 1627, Col. 2), which are diastereomers of each other (the stereochemistry is L,L,L and D,L,L, respectively). The Office Action asserts that these compounds correspond to the composition of Claim 22 when the variables of that claim have the following values: R₁=hydrogen; R₂=tBoc; R₃=hydrogen; R₄=hydrogen; R₅=phenyl; R₆=hydrogen; R₇=methyl; R₈=hydrogen; Y=propylene substituted with isobutyl; and Z = -O-CH₂-CH₃. The Office Action further asserts that variable R₂ can be tert-butyloxycarbonyl because R₂ can be R, and R, in turn, may be a branched skeleton that contains one oxygen atom and which may be substituted with oxo.

Applicants respectfully submit that Claim 22 has been amended to obviate this

anticipation rejection. Support for the amendment is found at page 9, lines 25-28, wherein use of a protecting group such as tert-butoxycarbonyl ("Boc") at R_1 or R_2 to protect the amine group is disclosed. This passage further discloses that the Boc group is suitably removed by a reaction, such as TFA/ CH_2Cl_2 for about one hour at ambient temperatures. Furthermore, Figs. 1 and 3 show, the removal of a Boc group to produce a final product. By this Amendment, claim 22 covers products which, if made with a Boc group at R_1 or R_2 , have the Boc group subsequently removed.

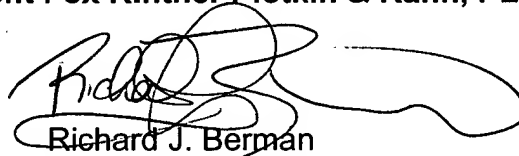
The Examiner has identified compounds 11 and 13 on page 1627 of Reetz as anticipating claim 22. Anticipation of claim 22 by compounds 11 and 13 of Reetz would require that either one of R_1 or R_2 , as defined in the Specification, is a Boc. "Boc" is defined by Reetz, at page 1626 in Scheme 1, as "tBuOC=O". Claim 22, as amended, excludes the possibility that either one of R_1 or R_2 is tert-butoxycarbonyl (Boc). Therefore, Applicants submit that amended claim 22 and dependent claims 23-73 cannot be anticipated by Reetz. Applicants request reconsideration and withdrawal of the anticipation rejection.

Allowance of claims 22-73 is respectfully solicited. If it is believed that the application is not in condition for allowance, it is respectfully requested that the undersigned attorney be contacted at the telephone number below.

In the event this response is not considered to be timely filed, Applicants hereby petition for an appropriate extension of time. The fee for this extension may be charged to our Deposit Account No. 01-2300, referring to client-matter number 108281-00000, along with any other fees which may be required with respect to this application.

Respectfully submitted,

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Enclosure: Petition for Extension of Time (3 Months)